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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RIGOBERTO TORRES,

Plaintiff,

vs.

WYNN LAS VEGAS, LLC, a Nevada Limited
Liability Company; DOES I-X; ROE
BUSINESS ENTITIES I-X,

Defendants.

Case No. 2:22-cv-00999-CDS-DJA

STIPULATED PROTECTIVE ORDER

Plaintiff Rigoberto Torres (“Plaintiff”), through his counsel Kemp & Kemp, and Defendant Wynn Las Vegas, LLC (“Defendant”), through its counsel Jackson Lewis P.C., stipulate as follows:

1. The parties enter into this Stipulated Protective Order under Federal Rule of Civil Procedure 26(c) to establish procedures for the handling of documents produced by the parties.

2. Any party may designate and mark certain documents produced in response to discovery requests as “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER.” The party designating such documents shall be referred to as the Designating Party and any party in receipt of such documents shall be referred to as the Receiving Party. Documents so marked may be used only for purposes of this litigation.

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1 3. Except as otherwise ordered by this Court, documents marked “CONFIDENTIAL”
2 or “SUBJECT TO PROTECTIVE ORDER” and the contents of documents so marked may be
3 disclosed only to employees or agents of the following persons:

- 4 (a) Plaintiff and his counsel of record for Plaintiff;
- 5 (b) Defendant and its counsel of record for Defendant;
- 6 (c) the non-technical and clerical staff employed by counsel of record;
- 7 (d) interpreters and copying services employed by counsel of record to the
8 extent reasonably necessary to render professional services in this case;
- 9 (e) any private court reporter or videographer retained by counsel for
10 depositions in this case;
- 11 (f) subject to the terms of paragraph 5, persons retained by counsel to serve as
12 expert witnesses or consultants in this case;
- 13 (g) any witnesses or deponents in this litigation;
- 14 (h) personnel of the Court, including court reporters, officials and employees
15 of the Clerk of Court, and staff of the presiding United States District Judge and United States
16 Magistrate Judge, to the extent deemed necessary by the Court; and
- 17 (i) any mediator in this litigation, and employees and staff of said mediator.

18 4. If counsel for a Receiving Party determines that it is necessary to disclose any
19 document marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” to any
20 persons other than the individuals included in paragraph 3, that counsel shall set forth the grounds
21 for the disclosure and seek the written consent of counsel for the Designating Party. The
22 Designating Party shall respond to the Receiving Party’s request within seven calendar days
23 unless the Receiving Party agrees to a longer period. If counsel for the Designating Party does
24 not consent, counsel for the Receiving Party and counsel for the Designating Party shall within
25 five court days of the Designating Party’s response meet and confer in person or telephonically
26 regarding the issue, during which meeting and conference counsel for the Receiving Party shall
27 specify the reasons why disclosure is necessary. If any agreement is not reached, the Designating
28 Party shall move the Court within the ten calendar days of the meeting and conference for a

1 protective order preventing disclosure. The Receiving Party shall not disclose the document
2 unless the Designating Party has failed to file a motion within the time allowed or the Court has
3 denied the motion.

4 5. If counsel for the Receiving Party determines that it is necessary to disclose any
5 document marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” to an expert
6 or consultants retained to render professional services in this case, that counsel shall notify
7 counsel for the Designating Party in writing at least seven days before the proposed disclosure
8 with the name of the expert or consultant. The Designating Party shall respond to the Receiving
9 Party’s notification within seven calendar days unless the Receiving Party agrees to a longer
10 period. If counsel for the Designating Party objects, counsel for the Receiving Party and counsel
11 for the Designating Party shall within five court days of the Designating Party’s response meet
12 and confer in person or telephonically regarding the issue. If an agreement is not reached, the
13 Designating Party shall move the court within ten calendar days of the meeting and conference for
14 a protective order preventing disclosure. The Receiving Party shall not disclose the document
15 unless the Designating Party has failed to file a motion within the time allowed or the Court
16 denies the motion.

17 6. Any party may object to the propriety of the designation of documents as
18 “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” by objecting and setting forth in
19 writing the grounds for the objection. The Designating Party shall respond to the Receiving
20 Party’s objection within seven calendar days unless the Receiving Party agrees to a longer period.
21 If an agreement is not reached, counsel for the Receiving Party and counsel for the Designating
22 Party shall within five court days of the Designating Party’s response meet and confer in person
23 or telephonically, during which meeting and conference counsel for the Receiving Party shall
24 specify the grounds for objection with respect to each document at issue. If the parties cannot
25 agree, then the Designating Party will then have ten calendar days after the conference of counsel
26 to file a motion to preserve the confidentiality designation. The burden of proof to demonstrate
27 confidential treatment of any information at all times remain with the Designating Party. The
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1 parties shall treat the documents as subject to this Stipulation and Order unless the Designating
2 Party has failed to file a motion within the time allowed or the Court has denied the motion.

3 7. Before disclosing any document marked “CONFIDENTIAL” or “SUBJECT TO
4 PROTECTIVE ORDER” to any person identified in subparagraph (c) of paragraph 3, counsel of
5 record for the Receiving Party shall advise that person of the terms of this Stipulation and
6 Protective Order and that he or she is bound by those terms. In addition, before disclosing any
7 document marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” to any person
8 identified in subparagraphs (d), (e), (f), or (g) of paragraph 3, counsel for the Receiving Party
9 shall ensure that the person (1) has read and agrees to the terms of this Protective Order and (2)
10 has acknowledged his or her agreement by signing a copy of the attached Acknowledgment
11 before any such document is disclosed to him or her:

12 **ACKNOWLEDGMENT**

13 I have read the Stipulated Protective Order in this case. I understand its terms and agree to
14 be bound by the terms of the Protective Order. I understand that my duties under the Protective
15 Order will survive the termination of this case and that failure to comply with its terms may result
16 in the District Court imposing sanctions on me. I consent to personal jurisdiction of the United
17 States District Court for the District of Nevada for the purpose of enforcing the Protective Order.

18 8. Counsel for each party shall retain copies of the Acknowledgment forms executed
19 by persons authorized for access on behalf of that party until this litigation, including all appeals,
20 concludes. Nothing in this Protective Order restricts the Designating Party’s own disclosure of
21 documents marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER.”

22 9. Any person receiving access to a document marked “CONFIDENTIAL” or
23 “SUBJECT TO PROTECTIVE ORDER” shall maintain the document, any copies of the
24 document, and any information derived from the document in a confidential manner and shall
25 take steps to avoid disclosure to persons not authorized under this Order to have access to the
26 documents or information.

27 10. Within thirty days of the conclusion of this litigation, including all appeals,
28 counsel for the Receiving Party shall destroy or send to counsel for the Designating Party all

1 copies of documents marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER.”
2 Notwithstanding this paragraph, however, the parties’ attorneys may retain one copy of each
3 document filed with the Court that contains or refers to any of the designated documents.
4 Furthermore, nothing in this paragraph shall be construed to require the parties’ attorneys to
5 disclose any attorney work-product to opposing counsel.

6 11. In connection with a deposition in this case, a witness or any counsel may indicate
7 that a question or answer refers to the content of a document marked “CONFIDENTIAL” or
8 “SUBJECT TO PROTECTIVE ORDER.” If the indication occurs on the record during the
9 deposition, all persons not authorized to review such documents shall leave the deposition room
10 until completion of the answers referring to the document and the reporter shall mark the
11 transcript of the designated testimony “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE
12 ORDER.”

13 12. If a party wishes to use information or material designated by another party as
14 “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” or oppose a motion or
15 otherwise file such information with the Court, the following procedures apply: Counsel shall
16 make a reasonable effort to meet and confer prior to filing information or material designated by
17 another party as “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER”. To the extent
18 possible, counsel shall submit, along with any document filed under seal, a joint motion reciting
19 the reasons for sealing the document consistent with the procedures set forth in LR IA 10-5 of the
20 Local Rules for United States District Court, District of Nevada (the “Court”) and *Kamakana v.*
21 *City & County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006). Otherwise, consistent with the
22 procedure set forth in LR IA 10-5 and *Kamakana*, 447 F.3d 1172, the filing party must file a
23 motion seeking leave of the Court to file Under Seal any Confidential Information.

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1 13. Nothing in this Stipulated Protective Order prevents any party from challenging
2 any assertion of privilege by any party, and nothing in this Stipulated Protective Order constitutes
3 a waiver of any assertion of privilege by any party or precludes any party from moving for
4 consideration of information ex parte and in camera.

5 Dated this 16th day of October, 2023.

6 KEMP & KEMP, ATTORNEYS AT LAW

JACKSON LEWIS P.C.

7
8 /s/James P. Kemp

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10 *Attorney for Plaintiff*

/s/Deverie J. Christensen

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Attorneys for Defendant

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15 **ORDER**

16 **IT IS SO ORDERED.**

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18 UNITED STATES MAGISTRATE JUDGE

19 Dated: 10/17/2023